

CABARRUS COLLEGE OF HEALTH SCIENCES

TITLE IX DISCRIMINATION, HARASSMENT, ASSAULT, RETALIATION, SEXUAL MISCONDUCT, AND WORKPLACE VIOLENCE

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PURPOSE

Cabarrus College of Health Sciences is committed to providing an educational learning and professional working environment for all students and employees that maintains equality, dignity and respect.

DEFINITIONS

Discrimination

Discrimination is the unfair treatment of a person or group on the basis of prejudice or real or perceived differences. Discrimination includes, but is not limited to, deliberate actions causing unfair or unfavorable treatment based on race, gender, religion, national origin, color, age, protected Veteran status, disability, pregnancy, genetic information, sexual orientation, gender identity or any other category that is protected by federal, state, or local law.

Harassment

Harassment is any action by an employee or student, regardless of position that:

- Is unwanted attention perceived as demeaning, intimidating, or bothersome.
- Unreasonably gets in the way of another employee/student's work or academic experience.
- Creates an intimidating or hostile environment.
- Singles out an employee or student, and is to that individual's disadvantage, because of race, color, religion, sex, age, national origin, sexual orientation, pregnancy, gender identity, disability, military status, genetic information indicating predisposition to chronic diseases, or any other basis prohibited by law.

Examples of behaviors that may be harassment are actions, words, comments, jokes, racial or ethnic slurs, or threats. Actions may be verbal, physical or visual.

Sexual Misconduct

Sexual misconduct is unwelcome behavior in a sexual nature that includes, but is not limited to, acts of sexual harassment, violence or assault.

Sexual Harassment

Sexual harassment is instance of *quid pro quo* harassment by a school's employee; any unwelcome conduct that a reasonable person would find so severe, pervasive, and objectively offensive that it denies a person equal educational access.

Stalking

Stalking is engaging in conduct directed at a specific individual that would cause a reasonable person to fear for the person's safety or the safety of others or suffer substantial emotional distress.

Sexual Violence and Assault

Assault is an intentional and voluntary act resulting from non-consensual sexual contact, non-consensual sexual intercourse, or other unwanted, harmful or offensive actions/contact.

- **Sexual violence** is a prohibited form of sexual harassment. Sexual violence includes physical sexual acts perpetrated against a person's will or where a person is incapable of giving consent due to use of drugs and/or alcohol or an intellectual or other disability.
- **Sexual assault** includes, but is not limited to rape, fondling, incest, statutory rape, forced sodomy, forced oral copulation, rape by a foreign object, sexual battery, sexual coercion, and threat of sexual assault.
- **Other forms of assault** may include fighting, attacking someone physically or emotionally, or threats of bodily harm.

Dating and Domestic Violence

Unwanted controlling, abusive, sexual, and aggressive behavior that occurs in romantic, family or other close relationships.

- Dating violence is committed by a person who is, or has been, in a social relationship of an intimate or romantic nature. Dating violence includes, but is not limited to, sexual or physical abuse, or the threat of such abuse.
- Domestic violence is committed by a current or former spouse or intimate partner, by persons sharing a child, or by cohabitating partners. Domestic violence includes, but is not limited to, sexual or physical abuse, or the threat of such abuse.

Retaliation

Retaliation, or taking adverse action against a student, another student, employee or co-worker based on the fact they have reported harassment, is prohibited by Cabarrus College policy. Examples of inappropriate retaliation could include disciplining when not merited, unjustified negative grades or appraisals, threats or intimidation, moving one to a less favorable schedule, or other action intended to harm the complaining party.

Consent

Consent is a voluntary agreement to engage in sexual activity. A person is unable to give consent if they are incapacitated due to unconsciousness, the use of alcohol or drugs, or have an intellectual or other disability. Previous relationships, history of sexual activity or past consent does not imply future consent. Silence or absence of resistance does not imply consent. Coercion, force or threat invalidates consent. Consent can be withdrawn at any time.

Workplace Violence

Workplace violence includes, but is not limited to:

- Physically assaulting another individual on properties of Cabarrus College or its clinical affiliations. Such actions include, but are not limited to, unwanted hostile contact, such as hitting, pushing, shoving, or throwing objects.
- Threatening another individual, stating a present or future intention to cause physical or mental harm. Any expression of intent to cause physical or mental harm is considered to be a threat.
- Harassing another individual through communication or behavior designed or intended to intimidate, threaten, or frighten another individual.
- Damaging another individual's, Cabarrus College's or Atrium Health's property.
- Having a weapon at Cabarrus College, in Atrium Health facilities, or other clinical locations (except for team members authorized to carry a weapon as part of their necessary/essential job duties).

POLICY

Cabarrus College of Health Sciences does not tolerate discrimination, harassment, assault, retaliation, violence, nor sexual misconduct in those or any other forms and will endeavor to protect students and employees from those inappropriate actions by others inside or outside the college community. Allegations of any of the aforementioned behaviors, including sexual misconduct will be taken seriously. Where there is reason to believe that a crime has been committed or college policies have been violated, the College will pursue charges and disciplinary action, as appropriate.

The College complies with Title IX of the Education Amendments of 1972, and its implementing regulations, which prohibit discrimination (including sexual harassment and sexual violence) based on sex in the College's educational programs, services and activities. Title IX also prohibits retaliation or adverse action taken against any student or employee for submitting a complaint, reporting harassment or participating in an investigation.

The College complies with Title IX requirements for pregnant students and those recovering from conditions related to pregnancy. Cabarrus College of Health Sciences does not tolerate the discrimination of a student based on pregnancy, childbirth, false pregnancy, termination of pregnancy, or recovery from any of these conditions.

This policy covers employees, students, applicants for employment or admission, contractors, vendors, visitors, guests, and participants in college-sponsored programs or activities. A non-student or non-employee who subjects a student or employee to *discrimination* in the college or clinical area will be informed of the *Title IX* policy and other action may be taken as appropriate.

I. Student Pregnancy and Childbirth Policy

Based on Title IX requirements, the College has the following obligations:

- A.** Cabarrus College of Health Sciences does not tolerate discrimination of a student based on pregnancy, childbirth, false pregnancy, termination of pregnancy, or recovery from any of these conditions. Any Cabarrus College student who is absent or misses an assignment for a health-related reason must submit a doctor's note or other supporting documentation to the instructor. For women covered under Title IX, doctor's notes only need to indicate that the student is medically ready to return to the demands of the educational setting.
- B.** Pregnant students must be allowed to participate in all parts of the College's educational programming including class, labs, clinicals, fieldwork, practicums, field trips, extracurricular activities, clubs, or any other educational experience offered to non-pregnant students. To ensure patient and student safety, faculty and students may agree to alternate yet comparable clinical or fieldwork assignments.
- C.** A pregnant student may not be excluded from an activity that is part of the school's educational program even if the activity is not operated directly by the College.
- D.** Students who are absent or miss an assignment because of pregnancy or childbirth must be allowed to make up missed work, as long as the student's physician deems the absence medically necessary. Faculty may make alternate arrangements for missed work, including but not limited to comparable assignments, allowing the student additional time to finish at a later day, and/or retaking a semester. If a course grade includes attendance or participation points, the student must be allowed to earn the credits back that they missed.
- E.** Cabarrus College will make adjustments to the regular program that are reasonable and responsive to a student's temporary pregnancy status. For example, this may include instructors allowing students frequent trips to the bathroom, or a larger desk.
- F.** When a student returns to the College, they must be allowed to return in the same academic and extracurricular status as before their medical leave began.

PROCEDURE

Reporting Requirements

Any person may report sex discrimination, including sexual harassment (whether or not the person reporting is the person alleged to be the victim of conduct that could constitute sex discrimination or sexual harassment), in person, by mail, by telephone, or by e-mail, using the contact information listed for the Title IX Coordinator, or

by any other means that results in the Title IX Coordinator receiving the person's verbal or written report.

Such a report may be made at any time, including during non-business hours, by contacting the TITLE IX coordinator by email or by mail to the office address, listed.

I. Employee Reporting Requirement

- A. All Cabarrus College employees are required to report any conduct that may violate this policy. This includes reports that students made in confidence.
- B. Employees who withhold information relating to this policy will be subject to discipline up to, and including, termination.

II. Student Reporting

- A. It is important to report to the Title IX coordinator (Sandy Harvey, Dean, Administrative and Financial Services , 704-403-3202, sandy.harvey@cabarruscollege.edu or Dean, Student Affairs and Enrollment Management if:
 1. A student believes they have been subjected to conduct that may violate these policies.
 2. A student believes they have been retaliated against in violation of these policies.
 3. If a student has witnessed a violation of any of these policies.
- B. Regardless of whether the student/employee makes a report pursuant to this policy, they have a right to file a complaint with law enforcement officials with respect to any conduct that may constitute a crime. A person may also file a report with the Department of Education's Office of Civil Rights regarding alleged violations of Title IX by visiting www2.ed.gov/about/offices/list/ocr/complaintintro.html or calling 1-800-421-3481.

III. Protective and Restraining Orders

- A. All students, faculty and staff who apply for or obtain a permanent or temporary protective or restraining order which lists Cabarrus College or Atrium Health Cabarrus locations as being protected areas and who request security services, should provide copies of the order to the Dean for Student Affairs and Enrollment Management and their supervisor. The Dean for Student Affairs and Enrollment Management will forward a copy of the protective or restraining order to Atrium Health Cabarrus Security. A copy of the protective or restraining order will be filed and kept confidential in the office of Atrium Health Cabarrus Security and the office of the Dean for Student Affairs and Enrollment Management. Other offices and individuals will be notified on a "need to know" basis.

IV. Preventing and Responding to Workplace Violence

A. Employee Responsibilities

1. Notify their supervisor, Human Resources, Corporate Compliance or the college administration or Atrium Health Cabarrus Security of any incidents of workplace violence. This includes workplace violence witnessed first-hand by the employee and workplace violence that the employee discovered second-hand from another employee, student or visitor.

B. Student Responsibilities

1. Notify a College employee and Atrium Health Cabarrus Security Department immediately regarding any person who makes substantial threat(s), exhibits threatening behavior or engages in violent acts on Atrium Health Cabarrus property, the College campus and/or clinical affiliates. This includes workplace violence witnessed first-hand by the employee and workplace violence that the employee discovered second-hand from another employee, student or visitor.

C. Administration Responsibilities

1. Promote a workplace environment that is free of violence.
2. Coordinate annual Title IX training.
3. Report any suspicions or potential threats of violence to Atrium Health Cabarrus Security.
4. Notify and consult with Human Resources on issues concerning employee behavior concerns, or any potentially dangerous situations.
5. Refer injured employees for medical treatment if necessary.
6. Refer involved employees to the Employee Assistance Program.

D. Atrium Health Cabarrus Security Responsibilities

1. Notify local police, if necessary, and take immediate action to secure the workplace.
2. Coordinate investigation of illegal involvement (employee and/or non-employee) in reported situations.
3. Consult with College Administration upon request to assess potential department-specific concerns.
4. Evaluate each event and report to the Safety Liaison.
5. Provide statistical data to Atrium Health Cabarrus Safety Committee and to the Dean, Student Affairs and Enrollment Management at Cabarrus College of Health Sciences to identify present or potential risks.

V. Procedure for Title IX violations (sexual harassment, discrimination, harassment, sexual misconduct, sexual violence and assault, dating and domestic violence, pregnancy discrimination, and retaliation)

A. Management Responsibilities

1. The College has designated the following individual as the Title IX Coordinator, to coordinate the College's compliance with, education of, and response to inquiries concerning Title IX as well as to receive reports of alleged Title IX violations, as well as violations of this policy Sandy Harvey, Dean, Administrative and Financial Services, 704-403-3202, sandy.harvey@cabarruscollege.edu or Dean, Student Affairs and Enrollment Management. The Title IX Coordinator, decision makers and investigators will receive annual training on the definition of sexual harassment, the scope of the college's education program and activities, how to conduct an investigation and grievance process including hearings, appeals, and informal resolutions. Students and employees are informed of this policy via the College Catalog and Student Handbook, and an annual disclosure within the compliance course. Each manager and supervisor is responsible for making sure that all employees within their area of responsibility are aware of this policy, for ensuring that all parts of a student educational experience, and employment actions are in accordance with this policy, and for initiating corrective actions when improper behavior is observed or reported.
2. Managers, supervisors, faculty members, instructors, and administrators are also responsible for ensuring retaliation does not take place as defined by the following non-retaliation statement: "There will be no retaliation or adverse action taken against any student or employee for submitting a complaint, grievance, or appeal, nor for reporting harassment, assault, discrimination or retaliation, or participating in an investigation."
3. Cabarrus College recognizes that the question of whether a particular action or incident is a purely personal, social relationship without a discriminatory or harassing enrollment or employment effect requires a factual determination based on all the evidence received. The College recognizes also that false accusations of harassment or discrimination can have serious effects on innocent men and women. We trust that all students and employees will continue to act in a responsible and professional manner to establish and maintain pleasant learning and working environments free of harassment and discrimination. We encourage any student or employee to raise questions they may have regarding harassment, discrimination, assault or retaliation with the Title IX Coordinator.

VI. Investigation and Sanctions for Title IX violations

B. Student Violations:

1. Any student who feels that they have been subjected to sexual misconduct or any conduct prohibited by Title IX, or that the college has failed to meet its obligations under Title IX, should bring the matter to the attention of the Title IX Coordinator. A report should be made as soon as possible after the perceived inappropriate conduct. There is no statute of limitations for college complaints,

but potential complainants are reminded that the college's ability to effectively investigate complaints can be impaired or negated as time passes. Serious assault should also be reported directly to the local law enforcement agency.

2. The Title IX Coordinator has the authority to assign an investigator to investigate allegations of sexual misconduct and conduct prohibited by Title IX even absent the filing of a formal grievance or its subsequent withdrawal. While the Title IX Coordinator welcomes an informal presentation of such allegations, and is available to address concerns through counseling, advice, and informal resolution, the Title IX Coordinator is fully prepared to receive and address such allegations through formal grievance procedures. Inquiries and/or complaints will be investigated immediately by the Title IX Personnel, regardless of other concurrent investigations. In addition, the Title IX Personnel may proceed with investigating a formal or informal grievance or complaint even if a complainant requests that the matter not be pursued.
3. Investigations into allegations of sexual misconduct or conduct prohibited by Title IX will begin immediately upon notification to the Title IX Coordinator. Every effort will be made to resolve these complaints in a reasonable amount of time. Should an investigation require an extended time, all parties will be notified via e-mail of the reason for the extension and an estimated date of conclusion.
4. The investigation refers to the process used to resolve allegations of sexual misconduct and conduct prohibited by Title IX. This includes the fact-finding investigation and any hearing and decision-making process used to determine whether or not the misconduct occurred. The investigation may include the following:
 - a) Conducting interviews of the complainant, the alleged perpetrator, and any witnesses. Throughout the investigation, the parties must have an equal opportunity to present relevant witnesses and other evidence.
 - b) If the alleged perpetrator is an employee, their immediate supervisor and/or Senior Leader will be notified for information purposes only.
 - c) Reviewing law enforcement investigation documents, if applicable. Even if a criminal investigation is ongoing, the college must still conduct its own Title IX investigation.
 - d) Reviewing student and personnel files.
 - e) Notifying the complainant and alleged perpetrator of his or her Title IX rights and any available resources, such as:
 - 1) Victim advocacy
 - 2) Housing assistance
 - 3) Academic support
 - 4) Counseling/employee assistance program (EAP)
 - 5) Disability services
 - 6) Health and mental health services
 - 7) Legal assistance
 - 8) And the right to report a crime to campus or local law enforcement
 - f) Gathering and examining other relevant documents or evidence. The College will use a preponderance-of-the-evidence (i.e., more likely than not) standard in any Title IX proceedings. Live hearings with cross-examination is required before a decision can be made. Both parties involved must be given equal opportunity for an advisor to represent the party. The College will send all parties and their advisors and investigative report summary 10 days prior to the hearing.
 - g) During the investigation phase, it may become necessary to take steps to ensure equal access to education programs and activities and protect the complainant as necessary, including taking interim measures before the final outcome of an investigation. It may become necessary for the Title IX Personnel to consult with other college personnel, as necessary, in order to

coordinate interim measures. Such measures may include, but are not limited to:

- 1) Providing support services to the complainant
 - 2) Changing course schedules, assignments, or tests
 - 3) Issue no contact orders to the alleged perpetrator
 - 4) Providing increased monitoring, supervision, or security on campus and at the locations where the misconduct occurred
5. Any student determined by impartial investigation to have violated the sexual misconduct policy will be subject to appropriate disciplinary actions. The complaint will be referred to the Dean for Student Affairs and Enrollment Management with a recommendation for disciplinary action from the Title IX Personnel. The Dean will conduct an administrative hearing to confirm a violation has occurred and to determine the final disciplinary actions, sanctions, or other remedies to be imposed. This includes the actions taken by the college to end the discriminatory behavior, eliminate the hostile environment and prevent its recurrence, and sanctions imposed on the perpetrator, such as:
- a) Disciplinary counseling: This sanction assures the opportunity for constructive counseling with qualified professionals suggested by the Dean, at the perpetrator's expense.
 - b) Action plan: This sanction defines corrective measures and a timeframe for meeting the measures.
 - c) Dismissal/termination: This sanction separates the student from the college permanently or for a specified time frame. Students may reapply for admission, as eligible, at the conclusion of this time period.
 - d) In the most serious situations, legal action may be taken at the discretion of the complainant and law enforcement.
 - e) In addition to disciplinary actions against the complainant, remedies for the complainant and for the broader campus community may include:
 - 1) Providing an escort to ensure safe movement on campus
 - 2) Ensuring the perpetrator and the complainant do not share classes or participate in the same extracurricular activities
 - 3) Reviewing the training provided to college employees and students on addressing allegations of discrimination and other violations of Title IX.
6. In all cases, the rights of the accused are equal to those of the complainant. All parties will be notified via simultaneous e-mail of the outcomes, followed by written notification of the outcomes, disciplinary actions and other remedies. Appropriate notification will occur during all stages of the investigation and sanctioning process. The complaints will be resolved as quickly as possible with every consideration to do so within the designated disciplinary process timeline. All parties may appeal the disciplinary actions and other sanctions imposed as outlined in the "Student Code of Conduct and Disciplinary Actions" in the College Catalog and Student Handbook.

C. Employee Violations:

1. Any employee who believes that they have been subjected to harassment and/or discrimination should report it immediately to their supervisor, Human Resources, Corporate Compliance or the college administration. An employee may utilize any one of these reporting mechanisms or a combination of these mechanisms that he or she is most comfortable using.
2. Employees can be secure that reports will be treated with sensitivity, taken seriously, and investigated as promptly as possible. Investigations will be conducted as confidentially as practicable consistent with a full and fair investigation and to protect the parties involved. This may include talking to all parties involved, including any witnesses.
 - a) If a team member believes that he or she is being retaliated against for reporting an allegation of harassment and/or discrimination or participating in an investigation of harassment and/or discrimination, he or she is to report it

immediately to Human Resources, Corporate Compliance, or the college administration.

3. Any employee determined by impartial investigation to have violated the sexual misconduct policy will be subject to appropriate counseling commensurate with the severity of the violation, up to the end of the employment relationship. All disciplinary action taken will then follow the procedures outlined in Atrium Health's policy 5.07.
 4. In all cases, the rights of the accused are equal to those of the complainant. All parties will be notified via simultaneous e-mail of the outcomes, followed by written notification of the outcomes, disciplinary actions and other remedies. Appropriate notification will occur during all stages of the investigation and sanctioning process. The complaints will be resolved as quickly as possible with every consideration to do so within the designated disciplinary process timeline.
- D.** Due to the sensitive nature of sexual misconduct charges, every attempt will be made to protect the confidentiality of all concerned individuals. However, requests of confidentiality may hinder the investigation.

REFERENCE:

CHS HR-5.07

College Catalog and Student Handbook (published annually: <http://www.carolinashealthcare.org/catalog>)

CHS Legal – July 2014

CHS HR- 5.18: Workplace Violence Prevention

Approved by Atrium Health Cabarrus Security – 11/5/2018

Approved by Atrium Health Legal – 1/17/2019

US Department of Education: Supporting the Academic and Success of Pregnant and Parenting Students

<https://www2.ed.gov/about/offices/list/ocr/docs/pregnancy.pdf>